

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| YOLANDA VAUGHN | : | CIVIL ACTION |
| | : | |
| v. | : | No. 10-4103 |
| | : | |
| MICHAEL J. ASTRUE, | : | |
| <i>In His Official Capacity as Commissioner</i> | : | |
| <i>of the Social Security Administration</i> | : | |

MEMORANDUM

Juan R. Sánchez, J.

November 29, 2012

In her Report and Recommendation, United States Magistrate Judge Lynne A. Sitarski recommends denying Plaintiff Yolanda Vaughn's request for review, and entering judgment in favor of Defendant Michael J. Astrue, the Commissioner of the Social Security Administration ("Commissioner"). For the following reasons, the Report and Recommendation will be adopted.

On April 19, 2012, Vaughn filed timely objections to the Report and Recommendation challenging the finding that the Administrative Law Judge ("ALJ") properly weighed the medical source opinions of Michael Urbano, M.D., Vaughn's primary care physician (objection one), David Behar, M.D., a treating psychiatrist, and William Waid, Ph.D., a consultative psychologist (objection two). Vaughn further objects inasmuch as she alleges Magistrate Judge Sitarski reformulated the ALJ's decision by engaging in her own fact finding and concluding there was no evidence in the record that Vaughn's use of a cane was medically necessary.

When a party makes a timely and specific objection to a portion of a report and recommendation by a United States Magistrate Judge, the district court is obliged to engage in de novo review of only those issues raised on objection. *See 28 U.S.C. § 636(b)(1) (2005).* Upon such

review, a court may “accept, reject, or modify, in whole or in part, the findings and recommendations” contained in the report and recommendation. *Id.* In the exercise of sound discretion, the court may rely on the magistrate judge’s findings and recommendations. *See United States v. Raddatz*, 447 U.S. 667, 676 (1980).

In responding to Vaughn’s first two objections, both of which were addressed by the Magistrate Judge in her Report and Recommendation, the Commissioner reiterates its position that the ALJ correctly determined the opinions of the medical sources are inconsistent with the clinical notes of record. Furthermore, the Commissioner argues the ALJ complied with the applicable regulations in giving each of those opinions reduced weight. This Court agrees with Magistrate Judge Sitarski’s analysis of these issues, and Vaughn’s first two objections are therefore overruled for the reasons set forth in the Report and Recommendation.

With respect to the third objection, the Commissioner asserts it is entirely within the province of the reviewing court to consider the record as a whole in evaluating the ALJ’s decision. Magistrate Judge Sitarski’s careful review of the entire record is precisely what was required in addressing Vaughn’s argument about the use of a cane and whether the ALJ’s reasoning is supported by substantial evidence. Therefore, Vaughn’s third objection is also overruled.

Accordingly, having carefully reviewed de novo the Report and Recommendation filed by Magistrate Judge Sitarski and Vaughn’s objections thereto, and upon independent review of the briefs submitted by the parties, this Court overrules the objections and approves and adopts the Report and Recommendation for the same reasons set forth by the Magistrate Judge. This Court therefore denies Vaughn’s request for review and enters judgment in favor of the Commissioner and against Plaintiff Yolanda Vaughn.

An appropriate order and judgment follow.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.